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ABSTRACT

The literature on the use of corporal punishment with children is reviewed, legal opinions on the issue are cited, and research on the social and behavioral aspects of corporal punishment are discussed. The literature is noted to focus on guidelines for administering corporal punishment, the importance of the relationship between the adult and child, the need to apply punishment early during the misbehavior, and the negative spillover effect of punishment on other children. Literature against the use of corporal punishment is reviewed, citing the risks and questionable effectiveness associated with its use. The fine line between corporal punishment as discipline and as abuse is noted. Included in the appendixes are an analysis of legal issues relating to corporal punishment, content analysis of state legislation regarding corporal punishment, and a review of alternative methods of child management and discipline. (CL)

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CORPORAL PUNISHMENT IN THE CARE OF CHILDREN:

A LITERATURE REVIEW AND ANALYSIS

Rosalie Anderson, MEd
Stephen Cramer, MSSW
Frank Foerster, JD
Michael L. Lauderdale, PhD

Region VI Resource Center on Child Abuse and Neglect
The University of Texas at Austin
Austin, Texas

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PREFACE

The Region VI Resource Center on Child Abuse and Neglect was established in July, 1975, through funding from the National Center on Child Abuse and Neglect, HEW, to provide training, technical assistance, and resource development to the five states in HEW Region VI. During the first year of operation, the Resource Center received a technical assistance request from the Texas Department of Public Welfare (now the Texas Department of Human Resources) to develop an issues document relating to the uses of corporal punishment in child care facilities. This document served as a resource to a citizens' review committee established to revise the Department's child care facilities licensing regulations.

In addition to extensive use of the document by the review committee and divisions within the Texas Department of Human Resources, the Resource Center received a number of additional requests for the document from public schools, other state social services agencies, and child advocacy groups throughout the country. With the increased attention given to corporal punishment and the *Ingraham v. Wright* Supreme Court decision, those of us in the field of child abuse and neglect have become increasingly concerned about what implications corporal punishment might have for the protection of our country's children. This publication is intended to provide an extensive review of the many issues and implications that relate to corporal punishment, rather than to advocate or to oppose its use.

A number of individuals and groups have lent their support as this publication was developed and subsequently revised. We wish to thank Algird Valiunas, Dianne Sullivan, Sue Ann Berry, and Helen Schlegel of the Resource Center staff; Professors Jack Otis and David Austin, and Karen Kelton of the School of Social Work at The University of Texas at Austin; Professors Mark Yudof and Jack Sampson and the RCCAN legal interns at The University of Texas at Austin School of Law; Dr. Joan Hebeler of The University of Texas Medical Branch in Galveston; Jill Shaw and Marie Oser of Texas Child Care '76; Commissioner Jerome Chapman, Deputy Commissioner Merle Springer, and Protective Services for Children Program Manager Bobbie Matthews of the Texas Department of Human Resources; Phil Fox, Associate Director, Child Abuse Project, Education Commission of the States; Norma Stone, Director of the Differential Day Care

Standards Development Project; and Irwin Hyman, Director of the National Institute for the Study of Corporal Punishment and Alternatives in the Schools, for their many contributions.

INTRODUCTION

The use of pain, aversive conditions, or noxious stimuli to regulate, shape, or condition the acts of others is rooted in antiquity. One definition of living matter is based upon an organism showing a tendency to avoid unpleasant situations and move toward more pleasant ones (tropism). The positive consequences of facing and enduring unpleasant circumstances, including punishment, are extolled in much of history's literature. In many cultures it becomes ritualized as a *rite de passage*, especially for males, and in military, sporting, and other competitive institutions. Enduring pain and punishment is a common human ritual observable in many forms, from circumcision rites to the hazing of plebes at West Point to the competitive rigors of Little League contests. Whether such experiences build character, and what kind of character they build, is a debatable and controversial question.

Pain has been ritualized in many cultures.

Whatever the effects of enduring aversive conditions, it is important to note that though "beating," a relatively unrestricted form of corporal punishment, may not be used legally on public employees (it was abolished by the Navy in 1850) or on inmates of institutions (including convicted criminals as stated in the Eighth Amendment), children in most parts of the United States may be beaten by parents and school personnel as long as no permanent physical harm is inflicted. In a landmark decision *(Ingraham v. Wright)* in April, 1977, the U.S. Supreme Court upheld the constitutionality of the use of physical punishment on school students. (See Legal Section.) In contrast, Scandinavian countries and the Soviet Union do not allow such punishment of children by educators, and France has forbidden it since 1887 (National Education Association, 1972).

While it is illegal to beat public employees and inmates of institutions, it is constitutional to physically punish school students.

The use of corporal punishment to control the behavior of children remains a provocative issue in our society today, especially when someone other than the parent applies the punishment. Parental use of such discipline is sanctioned by American society unless it can be determined that the child's physical or, as some are increasingly emphasizing, psychological safety, is in jeopardy. The role of the child care worker in day care centers and other institutions traditionally has been one of safeguarding the child from physical harm. With the added dimension of enhancing the child's total development, the child care worker's role becomes even more important, as well as increasingly difficult. A child care worker's decisions regarding methods of discipline now must include

The use of corporal punishment to control behavior remains a provocative issue.

When considering methods of discipline, child care workers must include not only concern for the physical well-being of the child, but also the psychological impact of different methods.

concern not only for the physical well-being of the child, but also for the psychological impact of different types of discipline on the child and the child's peers.

Opposing viewpoints for and against the use of corporal punishment will be made through a review of the literature, legal opinions, and research findings. A summary of alternatives to corporal punishment is also included.

This publication will focus on rationales for and against corporal punishment and their implications. It will include a review of the relevant literature and legal opinions and cite research findings relating to social and behavioral aspects of corporal punishment. Although the primary focus is to review the effects and implications of corporal punishment, it is felt that any publication relating to this topic must call attention to selected alternatives as well. However, as much has been written about various alternatives, a summary of methods is presented, with the intent that this will be used as a guide to seeking additional and more extensive resources.

Corporal punishment will be defined as the "infliction of physical pain for the purpose of discipline."

"Corporal punishment" as discussed in this paper will be limited to the "infliction of physical pain for the purpose of discipline" (National Education Association Task Force, 1972). This definition does not include use of physical restraint when it becomes necessary to prevent children from harming themselves or someone else, to take dangerous objects from children, or to protect property. "Physical restraint" is the "prevention of another's actions by physical force directed against that person in such measure and no greater than is sufficient to prevent such actions" (American Civil Liberties Union of Michigan, 1967).

The word "punishment" itself is derived from the Latin *poena* meaning "pain". Forms of corporal punishment include spanking, beating or whipping with implements, gagging, stomping, arm twisting, washing of the mouth with soap, application of extreme temperatures including severe burning, shaking, ear pulling, hair pulling, electric shock, sexual abuse, straitjacketing, and throwing one against the wall or floor (Maurer, 1974). One of the problems in discussing corporal punishment is the wide range of forms it may take. Although to most adults corporal punishment means nothing more than a spanking, often there is only a fine line between corporal punishment as discipline and corporal punishment as abuse (Gil, 1973). Thus most people and institutions advocating or permitting corporal punishment are quick to define specific limitations or guidelines when doing so:

Discussion of corporal punishment is difficult because of the wide range of forms it may take. There is often a fine line between discipline and abuse when using corporal punishment.

> Corporal punishment . . . shall only consist of paddling on the buttocks with a paddle. Contact with the parent or guardian must occur prior to the use of corporal punishment and their consent obtained. Its use shall be limited to the principal, in the presence of a witness. (Austin Independent School District, Austin, Texas, 1974 p. 1.)

Definitions of "discipline", although they vary widely in scope, tend to be much more positively oriented. "Discipline" may be seen as "a process whereby certain relationships (associations) are established. It is a way of behaving which will lead to certain results" (Madsen and Madsen, 1970, p. 5), or "the development of principles of democracy and equality within individuals in order to affect social change (Dreikurs and Grey, 1968). It becomes apparent that some types of corporal punishment, intended to promote discipline, in fact may be obstacles to the development of a positive self-concept for the punisher as well as the punished.

Some types of corporal punishment intended for discipline may, in fact, be obstacles to positive self-concept development.

TOWARD THE USE OF CORPORAL PUNISHMENT

Use of corporal punishment has drawn support from a variety of areas. Some of the earliest support comes from the Bible: "Foolishness is bound up in the heart of a child, but the rod of correction shall drive it far from him" (Proverbs 22:15). "Withhold not correction from the child: for if thou beatest him with the rod, he shall not die. Thou shall beat him with the rod, and shall deliver his soul from hell" (Proverbs 23:13-14).

Support of corporal punishment comes from a variety of areas...

the Bible...

In 1906, corporal punishment in the schools was a major issue, and a *New York Times* reporter editorialized, "No doubt there are often times when a flogging is a highly beneficient operation on a child" (Hechinger and Hechinger, 1974). Seventy years have brought little change in attitudes: the 1972 National Education Association (NEA) Task Force indicated that 65.7 percent of elementary school teachers questioned advocated corporal punishment (NEA, 1972). In discussing support of corporal punishment, however, it is important to emphasize that most individuals, teachers included, do not advocate violence, do not want to utilize corporal punishment, and do so only when they have reached a

teachers...

However, most individuals advocate corporal punishment only at a point of extreme frustration, or when they lack knowledge of alternative methods of discipline.

point of extreme frustration, or lack the knowledge and support necessary to use alternative methods of discipline.

Justification of corporal punishment by teachers includes such reasons as:

—It's necessary to protect staff and maintain a functioning learning environment;
—It's good for students;
—The school's clients (parents) favor it;
—It's only used as a last resort;
—It isn't used much anyway; and,
—It's legal. (NEA, 1972)

Corporal punishment may exist in child care facilities because child care workers feel punished themselves (School Discipline, 1976). They work long hours, have little free time away from the intense interaction necessary with children, have limited training in child development and discipline methods, and, as a result, often respond in frustration, using the only method of discipline they know has an immediate effect. They feel a need to rationalize the appropriateness of that method, and state they will support corporal punishment until something better comes along. Staff in institutions with very limited resources or support mechanisms often feel that corporal punishment is their only recourse in achieving student discipline. Because training in utilizing other approaches to discipline often costs money and corporal punishment does not, corporal punishment becomes acceptable in many child care facilities.

Because training in alternative methods is more costly than corporal punishment, use of corporal punishment often takes place because a caretaker doesn't know what else to do.

Even when corporal punishment might be effective, it is still difficult to use it objectively because both parties are often emotionally upset when the punishment is administered. However, some workers are finding that when they take an unemotional approach, they have success: "In terms of simply getting the job done there is no form of punishment that is more effective than corporal punishment" (Killory, 1974, p. 579). Killory argues that behavior changes are made with fewer side effects with corporal punishment than with other forms of punishment; lectures and shouting are tuned out, and confinement encourages withdrawing behavior, long-term hostility toward parents, and sympathy from peers. Killory offers suggestions for administration:

Some argue that corporal punishment is more successful when used with an unemotional approach and also produces behavior changes with fewer side effects than other forms of punishment.

> Spanking a child with one's hand is probably as painful to the administrator as it is to the receiver, so some form of implement might well be considered. Nonetheless, even with the use of such an implement, in all probability permanent, irreversible tissue damage will not result, especially if the spanking is confined to the buttocks and thighs ... Long before any serious damage is done the degree of trauma will become evident and the spanking stopped. (p. 580)

Although Killory is the only major source found that argues explicitly for the advantages of corporal punishment over other alternatives to discipline, many sources support corporal punishment when defined as spanking administered under specific conditions. In a 1957 study, 98 percent of the parents interviewed sometimes used spanking when disciplining their children (Sears, Macoby, and Levin, 1957). Dreikurs and Grey (1968) note that there is some evidence that suggests that an occasional spanking, if the relationship between the parent and child is satisfactory, does no identifiable harm. Madsen and Madsen (1972) state that spanking should be used very sparingly, if at all, and that if it is used, it should be forceful enough to stop the inappropriate behavior immediately. Otherwise, they point out, when the child repeats the behavior, the parent may become more angry, intensify the punishment, and the child may become conditioned to severe beatings without an end to the inappropriate behavior.

A study showed that 98 percent of interviewed parents used spanking in discipline.

It has been suggested that occasional spanking does no harm.

Others state that spanking should be forceful enough to stop the behavior immediately.

Harrison-Ross and Wyden (1972) agree that an occasional "whack on the bottom", especially when parents lack the time to use other approaches to discipline, is effective; however, they caution against cruel punishments and add that in order to be effective, spankings must be part of a loving and caring relationship between parent and child. They stress that the aim of spanking must not be to make a child afraid of adults or to teach fear, but to teach consideration of others, self-control and the difference between right and wrong.

The aim of spanking should be to teach rather than to induce fear.

Others suggest that spanking may be effective in the long run only if coupled with other alternatives, primarily positive reinforcement for appropriate behavior. MacMillan et al., (1973) state that spankings are effective if "judiciously used"; Buddenhagen (1971), if "used as a last resort"; and Mayer, Sulzer, and Cody (1968), "when immediate termination of behavior is warranted without time for longer-range

Spanking may be effective only if coupled with other alternatives or judiciously used.

approaches" (MacMillan et al., 1973, p. 87). However, Bandura (1969) notes the ease with which mild aversive punishments can be adapted. If the behavior change is unsupported by rewarded alternatives, a nearly traumatic punishment seems necessary to achieve a stable effect.

Disagreement exists as to whether corporal punishment leads to modeled aggression.

Killory, in response to opponents who state that children who are corporally punished initiate the same type of aggressive behavior as their punisher, cites a study by Sandler and Davidson (1973) in which modeled aggression "was not mentioned as a problem" (Killory, 1974, p. 58).

In a review of educators supporting corporal punishment, Maurer (1974, p. 622) could only find three (Bagley, 1923; Riebe, 1940; Stenhouse, 1967), but noted that they "tend to be quaint as well as dated."

Differing definitions of corporal punishment and conflicting research findings add confusion.

In several instances, punishment that proved effective was not corporal punishment, as was implied in the literature reviewed in its support, but consisted of raising the adult's voice (MacMillan, Forness, & Trumbull, 1973), or keeping the child after school for tutoring (Hall et al., 1971). Azrin, in one article reviewed, states that with rats, corporal punishment (by electric shock) was more effective in achieving cooperation than excessive noise (Azrin & Holz, 1966), but that article does not mention another of his studies (Azrin & Ulrich, 1962) which showed that rats became so aggressive following electric shocks that they fought continuously. When the shocks became more excessive, they became physically debilitated.

However, when punishment is defined as "a consequence of behavior that reduces future probability of that behavior" (Azrin & Holz, 1966, p. 16), and is seen as a continuum including electric shock, spanking, withdrawal of approval, denial of privileges or removal from a reinforcing setting, verbal reprimand, perception of failure and self-disappointment, there is research which supports some of the statements Killory and others make. MacMillan et al., (1973), after a review of the available research on punishment, came to the following tentative conclusions:

1. The most important condition of any form of punishment is the quality of the relationship that exists between the adult who is doing the punishing and the child being punished. Sears et al., (1957) also found that mothers who had warm relationships with their children found spanking more effective than others who were cold and hostile toward their children.

Several authors (Bandura & Walters, 1963; Parke, 1970; Parke & Walters, 1967) quoted by MacMillan et al. (1973, p. 93) have noted that the effect of punishment in changing behavior is enhanced by the presence of positive affective ties with the punisher, so that the punishment may consist of both withdrawal of approval/nurturance and infliction of physical pain. MacMillan et al. note that in such a relationship, social rewards may be sufficient to control behavior, especially when such factors as tone of voice, facial mannerisms, and children's need to please those they care about are taken into account (Bandura & Walters, 1963). Sears et al., noted similar findings in a preschool for autistic children.

Several researchers have noted that the presence of positive effective ties between the punisher and receiver of punishment enhances the effect punishment has in changing behavior.

Critics of corporal punishment often state that spanking will destroy an adult-child relationship. Zeilberger et al. (1968) noted no tendency for punished children to avoid their mothers. However, in a study by Lovaas and Simmons (1969), as more frequent punishment was given, children spent increasing amounts of time avoiding parents and the frequency of self-destructive behavior increased. This implies that spanking on occasion probably does not destroy adult-child relationships; however, frequent spankings may.

Critics of corporal punishment emphasize that frequent spankings may destroy an adult-child relationship.

This has strong implications for child care providers. Providers having positive relationships with children will probably obtain more effective results from spanking than those who do not. However, given the numbers of children to be cared for, the limited time caretakers have to spend with a child might be a constraint on the quality of positive relationships they can develop.

The literature implies that providers who have positive relationships with children will probably obtain more positive results from spanking than those who do not.

2. Another important concern is the amount of positive reinforcement given in addition to the punishment. MacMillan et al. cite numerous studies indicating that punishment is far more effective when paired with positive reinforcement of desired behaviors and a clear statement of the appropriate behavior expected (Sears et al., 1957; Parke, 1970). They point out that punishment often fails because adults punish children when they participate in inappropriate behavior, then ignore them when they behave appropriately.

Punishment paired with positive reinforcement may be more effective than punishment alone.

3. It is not punishment itself that is so important, but the child's perception of the punishment. Thus, the effect of the punishment varies from child to child, and there is no universal punishment

The child's perception of the punishment is more important than the punishment itself.

which works in all cases, except perhaps electric shock or spankings (MacMillan et al., 1973, p. 87). Aronfreed (1968), Parke (1970), and Sears et al. (1957) note the importance of cognitive verbal mediation of the punishment, and suggest that punishment accompanied by an explanation to the child of the rationale would be more effective.

4. When punishment is used, it must be applied early during the misbehavior. It is more effective to punish immediately. MacMillan et al. note the implications this has for the child who is sent to the principal's office to await punishment (Parke, 1970), as well as the effects of cognitive and verbal representations of the prohibited act in rendering timing less crucial (Aronfreed, 1968; Parke, 1970), especially for the older child.

It is much more effective to punish early during misbehavior.

5. Beginning with punishment that is relatively intense is more effective than beginning mildly and gradually building up to intensity, e.g., repeated warnings, shouting, and then spanking.

Immediate, intense punishment is more effective than gradually intensified punishment.

6. At the same time, however, punishment should be varied, since children often tune out or become used to repeated punishment of the same kind, e.g., they become used to the same negative phrases or to constant spankings (Azrin, 1959)

Punishment should be varied since children may develop adaptations to it.

7. Punishment that is delivered each time the inappropriate behavior occurs is more effective than intermittent punishment, e.g., a child should not be ignored on three such occasions and then be spanked as a last resort, then ignored again.

Punishment should be administered in response to each offense.

8. Punishment should be given in isolation since it has a negative spillover effect on other children. When sitting next to a child being punished, other children, even when praised themselves, decline in learning ability as a result of anxiety created by seeing the other child punished (O'Leary, 1967). It is doubtful that the decrease in their probability of imitating the punished child's disruptive behavior due to vicarious learning (Bandura, 1969, p. 128-129) is worth the decline in learning ability which can degenerate to the level of a school phobia (Maurer, 1974).

Punishment should be administered away from other children.

MacMillan et al. conclude that if corporal punishment is used, there is a need to create guidelines regarding its use.

AGAINST THE USE OF CORPORAL PUNISHMENT

The available literature opposing corporal punishment is much more extensive than that supporting it, and can be categorized into four basic areas: (a) general abhorrence of the fact that corporal punishment even exists, (b) views from noted social and behavioral scientists providing specific information as to negative effects of corporal punishment in contrast to other approaches, (c) field-based research using children, and (d) laboratory research, using children and adults on occasion, but in most instances using animals.

More literature is found opposing corporal punishment than supporting it.

The most comprehensive report on corporal punishment found was made by the NEA Task Force in 1972. The report, based on testimony from individuals as well as a review of literature, came to the following conclusions about the use of corporal punishment as a method of maintaining discipline:

A report by the NEA Task Force emphasized the many negative aspects of corporal punishment in maintaining an orderly learning environment.

- Physical punishment is an inefficient way to maintain order, since it has to be repeated over and over;
- Physical punishment may increase disruptive behavior;
- Physical punishment hinders learning;
- Physical punishment is not suitable for any children, regardless of their socioeconomic status;
- Physical punishment is most often used on students who are physically weaker and smaller than the teacher;
- Physical punishment is often a symptom of frustration rather than a disciplinary procedure;
- Infliction of physical punishment is detrimental to the educator;
- Physical punishment does not develop the child's self-discipline;
- Physical punishment develops aggressive hostility;
- Physical punishment teaches that might is right;
- Physical punishment by educators is not comparable to that inflicted by parents;
- Students may prefer physical punishment to other alternatives offered them;
- Limitations on the way physical punishment is to be used are often ignored;
- Physical punishment is legal in many places, but its constitutionality is being challenged in several court suits; (See Legal Section);

The study suggests that physical punishment can have many negative consequences.

- The availability of physical punishment discourages teachers from seeking more effective means of discipline;
- The use of physical punishment inclines everyone in the school community to regard students as less than human, and the school as dehumanizing.

After examining the extensive range of possible reasons for the use of corporal punishment discussed in oral testimony and the literature, the Task Force found that "the weight of fact and reasoning was against the infliction of physical pain as an attempt to maintain an orderly learning climate" (NEA, 1972, p. 7).

Experts in child development emphasize positive reinforcement as a prerequisite for children to develop positive self-concepts.

Experts in the field of child development have also come to many of the same conclusions. Bannatyne and Bannatyne (1973) suggest that in order for children to develop positive self-concepts, they must have a 90:10 ratio of positive/negative reinforcement. Children who receive only negative attention will tend to be extremely aggressive or withdrawn, hostile, of lower intelligence, less creative, and less secure than children who are recipients of primarily positive reinforcement (Williams et al., 1975). Children who are treated with punitive methods of discipline may respond for a short while and then become even more defiant. Through modeling of adult behavior, they learn to retaliate.

Punishment increases alienation and strengthens powers of resistance.

Children who are hit learn to hit others. As Dreikurs and Grey (1968) note, "punishment tends to harden and numb, sharpens the consciousness of alienation, and strengthens the power of resistance." Children who are socialized by adults with force and violence not only learn that force is useful, but also become well trained in how to use it (Lauber & Anderson, 1975). Children who are corporally punished may learn what *not* to do; however, they do not learn what to do instead and are unable to make responsible decisions about their lives (Dreikurs, 1965).

Children who are punished learn what not to do, but not what to do instead.

The ineffectiveness of corporal punishment has not been thoroughly understood and accepted.

Although the studies cited above are primarily anecdotal, numerous conclusions similar to the above have been made regarding the negative effects of corporal punishment. Maurer (1974) cites the results of 75 social, psychological, developmental, and educational articles on corporal punishment: "The verdict was unanimous: all were opposed" (p. 621). The tremendous weight of evidence suggests that corporal punishment is being used, "not because it has proven to be effective, but because its *ineffectiveness* has not

been thoroughly understood and accepted" (NEA, 1977, p. 8).

The following are brief synopses of some of the research findings that contribute to understanding why corporal punishment is ineffective:

- Individuals who witness violent acts and then become frustrated tend to increase the intensity of their own aggressive behavior (Geen & O'Neal, 1969). **Implication:** Children who witness corporal punishment and then become frustrated may express their frustrations more aggressively.
- Individuals who have someone react aggressively toward them and then watch someone else respond aggressively in their support tend to increase their own levels of aggression (DeCharms & Wilkins, 1963). **Implication:** A child who is hit by another child and then watches an adult punish that child physically may become more aggressive as a result.
- Inhibitions against aggression are lessened if an observer watches someone else act aggressively (Wheeler & Caggiula, 1966). **Implication:** A child who is not generally aggressive may become aggressive after observing corporal punishment.
- Individuals who are already angry become more aggressive after watching violence when they see the victim's suffering following the violence (Hartman, 1969). **Implication:** Children who are angry may become more aggressive if they watch corporal punishment and if they see the child suffering following the punishment. This has particular implications for adults whose practice it is to "hit until they cry" (RaMella, 1973, p. 27).
- People may pattern their aggressive behavior after the behavior of an aggressive model (Baron & Kepner, 1970). Dubanoski and Parton (1971) conducted a study with children in which one group observed a person using extreme aggression toward dolls, stabbing, bashing, and clubbing them. A control group observed the dolls being mutilated, but by invisible nylon threads instead of by the person. The first group showed much more aggressive responses toward the dolls when they played with them, also stabbing, bashing, and clubbing, than did the control group. The longer a person interacts with others more

A vast body of literature exists suggesting that observing aggressive acts stimulates individuals to become aggressive themselves.

Research studies with children support the fact that physical punishment of children increases their aggression levels.

aggressive than himself, the more aggressive that person becomes (Epstein & Taylor, 1967).

- Punishment for aggression increases the intensity of the aggression (Geen & Pigg, 1970). **Implications:** The use of corporal punishment on children who hit others may cause them to hit others more.
- Children who are punished on an intermittent basis for being aggressive will retain their aggression longer than children whose aggression is ignored (Cowan & Walters, 1963). **Implications:** It will be more difficult to change the behavior of children who are corporally punished only occasionally for being aggressive (rather than each time they exhibit aggressive behavior), than those children who are not corporally punished at all.
- Withholding reinforcement when a child acts aggressively, in addition to positive reinforcement for non-aggression, is an effective means of controlling aggressive behavior (Horton, 1970). Brown and Elliott (1965) conducted a study using nursery school boys. For a three-week period, teachers ignored all instances of aggression in the room and rewarded all responses that were not aggressive. At the end of the three-week period, researchers observed that aggressive behavior was considerably lower than prior to the study. They repeated the observations in two weeks and recorded even lower incidences of aggression. Behavior which is not rewarded, e.g., by attention, will usually be extinguished. However, this may not be the case for undesirable behaviors which are in themselves rewarding, i.e., which reduce a drive, state, or need, such as the need for stimulation which many children have. This has implications for the structure and plan of classes. Children left unstimulated in positive ways may develop their own means of stimulation to meet their needs.
- Punishment, or the threat of it, may be a stimulus for increasing aggressive behavior in already aggressive children. Eron et al., (1971) had 400 third graders rate each other as to levels of aggression. Parents were then interviewed regarding child-rearing practices. Children rated by peers as highly aggressive had parents who were more punitive. Children with punitive teachers were more aggressive and less concerned about learning than those with less punitive teachers (Button, 1969). A study of 30 schools showed that schools without corporal punishment had the lowest delinquency rates and incidences of behavior pro-

Some studies suggest that children with punitive parents and teachers are more aggressive than children with less punitive caretakers.

blems, despite being in the lowest socioeconomic areas (Nash, 1963). Button (1972) found a nearly perfect correlation between the amount of physical punishment and the severity and amount of antisocial aggression displayed during adolescence.

Corporal punishment has been found to be inversely related to the development of conscience and positively related to the development of aggression.

Research findings of the Gluecks, Freud, Sears et al., and Mackinnon verify (1) an inverse relationship between use of corporal punishment and development of conscience, and (2) a positive relationship between use of corporal punishment and development of aggression and delinquency (Brown, 1965).

Although corporal punishment could be justified with the claim that it is necessary to maintain discipline and for the developmental good of the child, the weight of opinion disagrees:

> The real source of a caretaker's frustration is, in many cases, a feeling of inability to cope effectively with a situation, not the person whose behavior is exemplifying that situation. A competent teacher, working in conditions that make it impossible to exercise professional judgment, may abandon all attempts to maintain discipline without striking children (NEA, 1972, p. 16).

While corporal punishment is justified with claims of necessity for maintaining discipline and for the positive development of the child, the weight of opinion is in disagreement with these claims.

> We may, indeed, administer corporal punishment in order to relieve our feelings or to save our nerves, but let us not delude ourselves into thinking that we are doing so for the good of the student. This can be promoted only by helping him to understand and master himself (Nash, 1963, p. 304).

> Corporal punishment allows a teacher to feel that she is really accomplishing some behavioral change. It provides a certain satisfying feeling that she is taking a direct and active step. In reality she is striking out in response to her own exasperation. She is displaying her own weakness. She is solving her own problems, not the children's (Katz, 1972, p. 5).

Use of corporal punishment by teachers may be an admission of failure to resolve a difficult situation.

Use of corporal punishment is essentially an admission of a teacher's feelings of powerlessness in a difficult situation and a refusal to try to solve the problem by examining it more closely (Felton, 1972). In the long run, corporal

punishment serves to disadvantage both the child being punished and the person doing the punishing (Skinner, 1948).

Corporal punishment may also be seen as reflecting racism and cultural differences.

The use of corporal punishment may also be seen as reflecting racism and cultural differences. Some cultures do not advocate aggression. People from those cultures may come in conflict with institutions that utilize corporal punishments and may inadvertently stimulate aggression (Williams et al., 1975).

Children of low socioeconomic status and of groups other than the dominant culture receive the majority of corporal punishment.

Often, it is children of low socioeconomic status and groups other than the dominant culture who receive the majority of corporal punishment. In the Austin, Texas, Independent School District in 1973, Blacks received 73 percent of the corporal punishment given, although they made up only 16 percent of the population. After the implementation of a new discipline policy, the number decreased to 23 percent, a significant change, but still higher than the population ratio should indicate (School Discipline, 1976). Ramella (1973) quotes a principal who said he kept three different sizes of paddles, choosing among them not on the basis of the child's offense, but according to the parents' income.

But cultural groups are voicing their own opinions on corporal punishment:

> We see corporal punishment as one of those maintaining and demeaning factors which must be removed in order for young Black people, especially young Black men, to be totally free and responsive to the process of learning (Black Education Commission, 1972).

> This archaic method of dealing with our Barrio children, because this is where the conditions are really bad, has got to go. Absences are many. Could it be our children are being driven out by those good teachers who take the easy way out, the paddle, wet tennis shoes, wet towels, etc.? Whereas the state code permits swatting, it forbids slapping, shaking, and hair pulling, common occurrences in our Barrio schools (Mount, 1972).

Some advocates of corporal punishment state that when specific limits and conditions are established, it is a safe and useful procedure. However, Maurer (1974) points out numerous instances of excessive corporal punishment, including some requiring hospitalization, where clear-cut policies existed. She states that when corporal punishment is allowed as a

means of discipline, it is too readily used and can be applied to excess too easily. The NEA Task Force quoted a principal: "When I found that I hit smaller kids harder than bigger kids, I realized I'd better stop hitting any kids" (p. 15). An Austin, Texas, Federation of Teachers survey indicated that two-thirds of all district teachers questioned were completely unaware of the district's guidelines for use of corporal punishment (School Survey, 1976).

Although some advocates of corporal punishment maintain that it is a safe and useful procedure when specific limits and conditions are established, many instances of excessive punishment occur even under such conditions.

Because corporal punishment involves unmistakable physical violence, it must be considered as an element in the pattern of violence that permeates our society (Gil, 1973; Chase, 1976). Steele (1970) considers violence to be part of our culture, including the Kennedy assassination and the Vietnam war. Steele also agrees that violence is endemic to our society:

Corporal punishment must be considered an element in the pattern of violence that permeates our society.

> Individuals as well as various cultural and social groups tend to use aggression and violence that they consider good or right to enforce their good and right standards. (Steele, 1970, p. 46)

The tendency to resort to violence as a means of settling disputes reemphasizes the fine line that exists between corporal punishment as discipline and corporal punishment as abuse. As Gil (1970) notes: "Our culture's widespread acceptance of corporal punishment, whether in private homes, public schools, or custodial institutions, is an underlying factor in child abuse" (p. 10).

A fine line exists between corporal punishment as discipline and corporal punishment as abuse.

Gil (1970), in a nationwide study examining the social and cultural aspects of physical child abuse, concluded that the use of force in dealing with children is subtly and even blatantly sanctioned by our society. Gil (1971) observes that in American society the use of physical force as a means of discipline is not excluded by cultural norms. In addition, he notes the pervasive encouragement of the use of force which permeates society through our mass communication, our schools, and even our juvenile courts, and states: "The culturally sanctioned use of force in child rearing thus constitutes the basic level of all physical abuse of children" (Gil, 1971, p. 391).

In an incidence study conducted by the American Humane Association in 1976, a total of 99,579 reports of child abuse and neglect were received from the 31 participating states and territories. Of this total number of reported cases, 47.4 percent were found to be valid. The natural

parent was found to be the perpetrator in 86.9 percent of the cases. Twenty-one percent of all reported cases resulted in moderate injury to the child requiring formal medical treatment, and, in 6 percent of all cases, serious hospitalization was required. In examining factors present in families when child abuse was inflicted, the study found that "the two factors most frequently indicated were lack of tolerance and loss of control during discipline" ("National Analysis of Official Child Neglect and Abuse Reporting," American Humane Association, Denver, Colorado, 1973, p. 18).

In child abuse, the two precipitating factors most frequently indicated are lack of tolerance and loss of control during discipline.

Some of the most forceful statements correlating the use of corporal punishment with child abuse are found in testimony by Richard Gelles (1977) to the United States Senate Subcommittee on Child and Human Development relating the preliminary findings from a national study on violence in the American family. A sample of 2,143 families was interviewed in Gelles's study. The interview included questions relating specifically to parent-to-child violence. Preliminary findings of this survey indicate that forms of violence against children are extremely common, including slapping and spanking. Fifty-eight percent of respondents surveyed indicated that they had slapped or spanked their children during the past year. More significant is Gelles' estimate of the numbers of children who are victims of more serious types of violence. Gelles states:

A national study of violence in the American family indicated violence against children, including slapping and spanking, is extremely common.

> There were nearly 46 million children between the ages of 3 and 17 years old who lived with both parents in 1975 (Bureau of the Census, 1975). Of these children between 3.2 and 3.9 million have been kicked, bit, or punched, while between 1.2 and 1.7 million were kicked, bit, or punched in 1975. Between 1.6 and 2.2 million children have been "beaten up" while growing up, and between 460,000 and ¾ of a million children 3 to 17 years old were "beat up" in 1975. Lastly, our data means that between one and 1.4 million American children between the ages of 3 and 17 have had their parents use a gun or knife on them. (Gelles, 1977, p. 12).

Gelles concludes that these types of violence are not rare phenomena, but rather a pattern of parent/child relationships in American families.

Violence against children seems to be part of a pattern of parent/child relationships in American families.

Thus, the sanctioning of physical force in child rearing situations often results in serious acts of abuse against the child. There is a very thin line between what constitutes legitimate use of corporal punishment as a means of discipline and what constitutes physical violence perpetrated upon a child. Corporal punishment is just that—it is punishment. It may be more productive to talk about discipline, which denotes connotations of teaching rather than punishing. Thus, corporal punishment as a form, an often sanctioned form, of physical violence should be a concern to all who value children.

Sanctioned physical force in child rearing often results in serious acts of child abuse.

CONCLUSION

Until the total long-range and short-range effects, both internal and external, of a given method of discipline on a given child can be known, "effective discipline will remain a matter of difficult judgment made in situations in which not all of the relevant forces and pressures are usually known" (Williams et al., 1975). The evidence presented above, however, does indicate the considerable risks and questionable effectiveness associated with the use of corporal punishment. Thus the search for, and refinement of, alternative methods to encourage children's discipline and self-concept development must be given high priority.

The risks and questionable effectiveness of corporal punishment make the search for alternative methods a high priority.

SUMMARY OF FINDINGS

1. Arguments for corporal punishment assume limited and controlled use.
2. The major argument for occasional use of such punishment is that it may be brief and more effective than other forms of discipline in the short run.
3. Arguments against corporal punishment are that it is ineffective, or has negative effects on discipline and on learning, and that it may have negative effects on behaviors of children other than those being disciplined as well as on the adult administering the discipline.
4. Authors concerned with child abuse cite evidence that the use of corporal punishment for discipline can easily become a form of abuse, and that a high proportion of

Some of the literature suggests that corporal punishment reflects and reinforces the general patterns of violence in our society.

abuse cases are related to the use of disciplinary physical punishment.

5. Some authors point to the use of corporal punishment as reflecting and reinforcing general patterns of violence in our society.
6. Many authors point to the lack of training and resources for child care personnel as strongly contributing to the tendency to resort to corporal punishment out of frustration and anger.

Many authors state that lack of training and resources for child care staff contributes to the use of corporal punishment.

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APPENDIX I

LEGAL ISSUES RELATING TO THE USE OF CORPORAL PUNISHMENT

PART A: The Legal Status of Corporal Punishment

PART B: Content Analysis of State Legislation Regarding Corporal Punishment

PART C: Proposed Model Law Outlawing Corporal Punishment

PART D: Suggested Legal Resources

THE LEGAL STATUS OF CORPORAL PUNISHMENT

Corporal punishment by parents and other persons acting in "loco parentis"[1] to discipline and to control children has received strong societal support historically. Although corporal punishment continues as an acceptable method to control children's behavior, in recent years many questions have been raised as to its wisdom and its effects. This section reviews the current legal status of corporal punishment.

Many questions have been raised as to the wisdom and effects of corporal punishment.

Criminal Liability for Corporal Punishment

Within certain relatively broad limits, parents and other caretakers in every state enjoy a statutory freedom from criminal penalties for striking children, behavior which would normally constitute assault and battery if directed toward an adult. State laws which protect a caretaker from criminal or civil liability when using corporal punishment differ as to the amount of force a caretaker may use, as well as the reasons for its use. In Arkansas, a person entrusted with the care and supervision of a minor may use reasonable and appropriate physical force to the extent reasonably necessary to maintain discipline or to promote the welfare of the child.[2] If the force used is reasonable in manner and moderate in degree, an Oklahoma teacher, parent, or authorized agent of the parent may use corporal punishment to correct the misconduct of a child under his or her supervision.[3] Oklahoma, in fact, specifically sanctions the use of "spanking, switching or paddling."[4] Texas law imposes no analogous "reasonable force" limitation, but rather concentrates on the intent and beliefs of the person administering the punishment. The Texas Penal Code allows a parent, stepparent, grandparent, guardian, or anyone else acting with express or implied consent of a parent to use anything short of deadly force against a child if he or she reasonably believes such force is necessary to discipline or to promote the welfare of the child.[5] Whether the Louisiana test is one of "reasonable force" or "reasonable intent" is unclear, as Louisiana law allows a parent, tutor, or teacher to "reasonably discipline" a child without criminal liability.[6] The New Mexico Criminal Code does not specifically

State laws which protect a caretaker from criminal or civil liability when using corporal punishment differ according to the amount of force a caretaker may use, as well as the reasons for its use.

Some states adhere to "reasonable force" limitations to corporal punishment, while other state laws concentrate more on "reasonable intent."

mention a parental privilege to discipline, but teachers are held to a common law "reasonableness" standard for their use of corporal punishment in the public schools. The New Mexico Department of Education has adopted guidelines which recommend that a teacher consider three factors in choosing an appropriate disciplinary measure: (1) reasonableness of the rule broken; (2) the relationship of the punishment to the offense; and (3) the physical characteristics of the student involved.[7] The Department also cautions that teachers are not protected from liability under New Mexico common law if they are motivated solely by anger, malice, or frustration when administering corporal punishment.[8] Finally, the Department guidelines suggest that an individual determination be made in each case that corporal punishment is the best disciplinary action available under the circumstances.[9]

In the cases of criminal prosecution, the Model Penal Code recommends a limited legal defense.

Where a parent, or someone acting at the parent's request, inflicts corporal punishment which results in a criminal prosecution, the Model Penal Code recommends a limited legal defense.[10] If the defendant can show that the force used was intended to safeguard or promote the minor's welfare, or to prevent or punish the child's misconduct, the corporal punishment would be allowable. In addition, the Code recommends that a teacher or other person entrusted with the care and supervision of a minor for a special purpose is permitted to use the same force as a parent, if he/she reasonably believes the force is not only necessary to further the special purpose, but also is consistent with the welfare of the child."[11] In either of the above circumstances, however, any force designed to cause death, serious bodily harm, disfigurement, extreme pain, mental distress or gross degradation is indefensible, regardless of the caretaker's intent.[12]

Various state statutes that limit the use of corporal punishment by imposing penalties for injury to a child range from a felony for "cruelly punishing" a child knowingly, intentionally or negligently, and without justifiable cause, to a misdemeanor for creating "substantial risk of serious harm to the physical and mental welfare" of a minor.

The use of corporal punishment is limited by other statutes imposing penalties for injury to a child. In Texas, a person is answerable for a second degree felony if he or she intentionally, knowingly, or recklessly causes serious bodily injury or serious mental impairment to a child under 14 years of age.[13] Oklahoma prohibits any person from willfully or maliciously beating, injuring, torturing, or using unreasonable force upon a child under 17, or permitting such acts.[14] Arkansas makes it a misdemeanor to create "substantial risk of serious harm to the physical and mental welfare" of a minor.[15] Louisiana outlaws the inflicting of "unjustifiable pain or suffering" on a person under the age of 17.[16] In

New Mexico, it is a felony to "cruelly punish" a child if done knowingly, intentionally, or negligently, and without justifiable cause. [17]

Civil Liability for Corporal Punishment

Not only is a caretaker free from criminal liability for the use of corporal punishment, but if the force used is reasonable he or she also is immune from civil liability for damages. The judicial standards established as law in most states encompass both an objective test of how much force can be used, and a subjective test of the caretaker's intent when using the force. Under the objective test, the court determines whether the force was reasonable by considering such factors as: (1) the age, sex, physical condition, and mental condition of the child; (b) the nature of and motive for the child's offense; (c) the effect of the child's offense upon his/her peer group; (d) whether the punishment appears necessary to compel obedience or is disproportionate in severity to the offense; and (e) whether the person exerting the force is the child's parent. [18] To meet the subjective standard, the parent or other caretaker must reasonably believe the force used is necessary for the child's proper control, training, and education. [19] A parent may restrict the conduct of another caretaker who would otherwise be legally permitted to inflict certain punishments or to punish the child for disobeying the caretaker's wishes. An exception to the last statement would be the public schools, although local or state laws and policies may permit parents' discretion in the matter.

If the corporal punishment is reasonable, the caretaker is also immune from civil liability for damages in most states.

Corporal Punishment in the Schools

In every state except Massachusetts and New Jersey, [20] public school teachers and administrators are allowed to use corporal punishment as is necessary for the child's education or training, either by statute or implicitly by statutory silence. In a narrow 5—4 decision, the United States Supreme Court in April of 1977, resolved the *Ingraham v. Wright* case,[21] which has great implications regarding the future of corporal punishment in schools. The students represented in *Ingraham*

The Ingraham v. Wright case has great implications regarding the future of corporal punishment in schools.

raised two constitutional issues regarding corporal punishment.

The first of these issues involved the Eighth Amendment prohibition of cruel and unusual punishment. After reviewing the history of the Eighth Amendment and noting that the Court has always determined whether or not a punishment is "cruel and unusual" within the context of a criminal punishment, the Court refused to extend Eighth Amendment protection to school children. The Court stated that the school child is in very different circumstances from the criminal prisoner. The school child is seen by the Court as having little need for the protection of the Eighth Amendment, because the openness of the public school and its supervision by the community afford significant safeguards against abuses *(Ingraham v. Wright)*. These safeguards are reinforced by the legal constraints of the common law which provide for criminal liability and civil liability, in the form of a money damages award, for any public school teacher or administrator who inflicts more corporal punishment than is reasonably necessary for the proper education and discipline of a child. The Court concluded that the Eighth Amendment is inapplicable when public school teachers or administrators impose disciplinary corporal punishment.

The Court saw little need for Eighth Amendment protection due to the openness of the public school and its supervision by the community.

The second issue considered in *Ingraham*, however, did implicate a constitutionally-protected right. The Court saw it as fundamental that a state cannot hold and physically punish an individual, except in accordance with the due process of law requirements of the Fourteenth Amendment. The Fourteenth Amendment prohibits a state from depriving a person of life, liberty, or property without due process of law, and when school authorities, acting under the color of state law, punish a child for misconduct by restraining the child and inflicting appreciable pain, the child's liberty interests are implicated. In determining what amount of due process the child was entitled to in this situation, the Court analyzed the competing interests at stake. The conclusion of the Court's analysis was that the due process clause did not require prior notice and a hearing before the disciplinary paddling because: the student is not deprived of substantive rights as long as the corporal punishment is reasonable and not excessive; civil and criminal sanctions for abuses are adequate considering the openness of the school environment; and the benefit to an individual student of the additional safeguard of notice and a hearing is outweighed by the increased cost and burden placed on school systems.

After analyzing the competing interests at stake, the Court concluded that the due process clause did not require prior notice and a hearing before the disciplinary paddling.

It is important to note that the *Ingraham v. Wright* decision applies to school districts which permits corporal punishment of students. Each school district is free to adopt policies and procedures which forbid or significantly restrict the use of corporal punishment.

Also of significance is the use of corporal punishment on a student over the objections of that child's parent(s). By affirming the decision of a federal court in North Carolina, the Supreme Court in *Baker v. Owen*, 423 U.S. 907 (1975), agreed that the Fourteenth Amendment liberty interest embraces the right of parents generally to control the means of discipline of their children, but that the state has a countervailing interest in the maintenance of order in the schools that is sufficient to sustain the rights of teachers and school officials to administer reasonable corporal punishment for disciplinary purposes.

By affirming Baker v. Owen, the Court upheld the use of corporal punishment of a student over the objections of that child's parent(s).

Corporal Punishment as Child Abuse

The issue of corporal punishment as it relates to child abuse deserves mention. As a result of the popularization of the "battered child syndrome",[22] every state has enacted legislation permitting intervention into family life in order to protect children from severe abuse.[23] Such statutes allow for close scrutiny of home life by state agencies, and in severe cases removal of children from the home may result.[24] Interestingly, while other criminal or civil statutes establish "reasonable force or reasonable intent" of parents as a standard for liability, often child abuse statutes are directed at the welfare and best interest of the child as the standard for intervention and removal from the home. For example, in Texas the appropriate state agency "shall make a thorough investigation promptly after receiving either the oral or written report" and the "primary purpose of the investigation shall be protection of the child."[25]

Child abuse statutes are directed at the welfare and best interest of the child as the standard for intervention and removal from the home.

Hence, when contrasting the liability of a parent for excessive use of force under non-child statutes with child abuse statutes, then conflicting standards apply. Even where "reasonable force or reasonable intent" were shown by a parent, child abuse standards would focus on the child and might result in removal of a child temporarily or permanently from a parent. The messages transmitted by

society in this area are confusing, if not contradictory. At this point in time, the line between severe but authorized corporal punishment and child abuse remains unclear and must be determined on a case-by-case basis.

FOOTNOTES

[1]"In loco parentis" means literally "in the place of the parent" and refers to the equivalent legal status of the state or another individual who has assumed some of the duties and responsibilities of caretaking for a child either temporarily (e.g., while in school) or permanently (e.g., while in foster care). The protection afforded parents and those in the role of parents can be traced back to the common law of England where a husband and father was literally "master" of his household. Protection of the prerogatives of parents rather than child still rests upon views long held by courts and legislatures in this country that privacy and family integrity on the whole are more important than individual rights of family members. Because of an awareness of the delicate and intimate nature when human aggression erupts as violence between husband and wife or parent and child.

[2]Ark. State Ann., Section 41-505(1) (1975).

[3]21 Okla. Stat. Ann., Section 643 (1961).

[4]21 Okla. Stat. Ann., Section 843 (1963).

[5]Tex. Penal Code Ann., Section 9.61 (1973).

[6]La. Rev. Stat. Ann., Section 14.18(4) (1942).

[7]Office of General Counsel, New Mexico Department of Education, "Memorandum to State Board of Education and State School Superintendents: Current Status of the Common Law in Area of Corporal Punishment," April 17, 1973.

[8]Ibid.

[9]Ibid.

[10]A.L.I. Model Penal Code, Section 3.08 (1962). The Model Penal Code is published by the American Law Institute, the major national organization which promulgates model criminal laws for the consideration of state legislatures in adopting state statues.

[11]Ibid.

[12]Ibid.

[13]Tex. Penal Code, Section 22.04 (1973).

[14]21 Okla. Stat. Ann., Section 844 (1975).

[15]Ark. Stat. Ann., Section 41-2408 (1975).

[16]La. Rev. Stat. Ann., Section 14.93 (1968).

[17]Section 40A-6-1 N.M.S.A. (2d. Repl. Vol. 6, 1973 Supp.).

[18]Restatement of Torts 2d, Section 150. The Restatement of Torts is published as a model for consideration by state legislatures and state court judges in making statutory and judicial law.

[19]Restatement of Torts 2d, Section 147.

[20]Restatement of Torts 2d, Section 153.

[21]*Ingraham v. Wright*, 51 L. Ed. 2d 722, (1977).

[22]R. Helfer, H. Kempe, *Child Abuse and Neglect* (1976).

[23]S. N. Katz, *When Parents Fail* 56-57 (1971).

[24]M. Wald, State Intervention on Behalf of "Neglected" Children: Standards of Removal of Children from Their Homes, Monitoring the Status of Children in Foster Care, and Termination of Parental Rights. 28 Stan. L. Rev. 623, 626, n. 4 (1976).

[25]Tex. Family Code, Section 34.05(a) (1974).

CONTENT ANALYSIS OF STATE LEGISLATION REGARDING CORPORAL PUNISHMENT

STATE	LEGALITY if possible			WHO MAY INFLICT				RESTRICTIONS										JUSTIFICATIONS						
	permitted	silent	not permitted	Administrator	Teacher	Other certified employee	Non-certified employee	need approval of principal	in the presence of another person	without undo anger	reasonable	not deadly force	approval from parents	provide parents with explanation	not in head or face	not in the presence of other students	restraint	correction	to maintain discipline	promote welfare of child	to quell misbehavior	to increase obedience	
*Alabama		X																						
Alaska		X																						
Arizona	X										X						X	X						
*Arkansas	X			X	X	X			X															
California	X			X	X	X					X		X					X						
Colorado	X				X	X					X								X	X				
*Connecticut	X																		X					
Delaware	X			X	X														X					
Florida	X			X	X			X	X					X					X					
Georgia	X			X	X				X		X								X					
*Hawaii																								
*Idaho	X				X																X			
Illinois	X			X	X				X															
Indiana		X																						
*Iowa	X			X	X																			
Kansas		X																						
*Kentucky	X				X																			
*Louisiana	X			X	X																			
Maine			X																					
Maryland			X																					
Massachusetts			X																X					
Michigan	X			X	X												X	X						
Minnesota	X				X						X													
*Mississippi	X			X	X																			
Missouri		X																	X					
Montana	X				X				X	X			X											
*Nebraska	X																							
Nevada	X			X	X	X							X				X	X						
New Hampshire		X																						
New Jersey			X					X	X	X						X	X		X					
New Mexico	X			X	X	X						X							X	X				
New York	X				X						X						X	X	X					
*North Carolina	X			X	X	X													X					
North Dakota	X			X	X						X								X					
Ohio	X			X	X																			
Oklahoma	X			X	X						X								X	X				
Oregon	X				X																			
*Pennsylvania	X			X	X																			
Rhode Island		X																						
South Carolina	X																							
South Dakota	X			X	X	X	X				X								X					
Tennessee		X																						
Texas	X			X	X														X					
Utah		X																						
Vermont	X			X	X						X						X		X				X	
*Virginia	X			X																				
*Washington	X			X	X																			
West Virginia		X																						
Wisconsin		X																						
Wyoming		X																						

*Data Extracted From New Jersey Survey: New Jersey Department of Education, Rulings for corporal punishment in the United States. Unpublished survey, 1976.

SOURCE: Friedman, R. H. and Hyman, E. A. "An analysis of state legislation regarding corporal punishment in the schools", in Wise, J. H. (Ed.) *The Proceedings: Conference on Corporal Punishment in the Schools: A National Debate*, Washington, D.C.: National Institute of Education, U.S. Department of HEW, 1977.

PROPOSED MODEL LAW OUTLAWING CORPORAL PUNISHMENT

(NEA, 1971, p. 29)

Corporal Punishment of Pupils

No person employed or engaged by any educational system within this state, whether public or private, shall inflict or cause to be inflicted corporal punishment or bodily pain upon a pupil attending any school or institution within such education system; provided, however, that any such person may, within the scope of his employment, use and apply such amounts of physical restraint as may be reasonable and necessary: (1) to protect himself, the pupil, or others from physical injury; (2) to obtain possession of a weapon or other dangerous object upon the person or within the control of a pupil; (3) to protect property from serious harm; and, such physical restraint shall not be construed to constitute corporal punishment or bodily pain within the meaning and intendment of this section. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing corporal punishment or bodily pain to be inflicted upon a pupil attending a school or educational institution shall be void.

SUGGESTED LEGAL RESOURCES

American Jurisprudence (2nd Ed.)

Vol. 59, Sections 1-164, "Parent and Child," pp. 79-260.
Section 24, "Discipline," pp. 106-107.
Section 161, "Corporal Punishment," p. 257.

American Law Reports, Annotated (2nd Ed.)

Vol. 89, Sections 1-24, "Criminal Liability for Excessive or Improper Punishment Inflicted on Child by Parent, Teacher, or One in Loco Parentis," pp. 396-446.

Vol. 43, "Teacher's Civil Liability for Administering Corporal Punishment to Pupil," pp. 469ff.

Vol. 19, "Liability of Parent or Person in Loco Parentis for Personal Tort Against Minor Child," pp. 423ff.

Prosser, William L. *Law or Torts (4th Ed.)*, St. Paul, Minn.: West Publishing Co., pp. 136-137, 348-349, 871-872, 859-868.

Restatement of Torts, Second, Sections 147, 150-155 and Comments.

1. Baker v. Owens, 423 U.S. 907, 46L. Ed. 137, 96 S. Ct. 210, affd. 395 F. Supp. 294 (MDNC 1975).

2. Goss v. Lope, 419 U.S. 564 (1975).

3. Ingraham v. Wright, 511 L. Ed. 2d 711, 1977.

4. Nelson v. Heyne, 491 F. 2d 353 (7th Cir. 1974).

APPENDIX 2

ALTERNATIVE METHODS OF CHILD MANAGEMENT AND DISCIPLINE

ALTERNATIVE METHODS OF CHILD MANAGEMENT AND DISCIPLINE

Unlike corporal punishment, which can be considered a "problem-oriented procedure" (i.e., it is invoked only when circumstances seem to require it), the alternatives discussed below are more in the nature of systems of group management which are in operation all of the time. Though most are applicable in crises, one of their goals is to prevent angry confrontations. This list is illustrative, not exhaustive.

One of the goals of alternative methods of discipline is to prevent angry confrontations.

Many of these approaches have a high success rate when used appropriately. However, the worker must be comfortable with and understand the method completely, and the method must meet the child's individual needs and be appropriate for that child and the situation. What is effective discipline for one child and one adult will not work with another child, or for the same child with another adult.

Adlerian Democracy

This system, based on the theories of Adlerian psychology, is mainly the work of Rudolf Dreikurs. The method is founded on (1) an understanding of the child's needs to belong and to receive affection, attention, and approval; (2) an understanding of the goals of (mis)behavior: attention-getting, power, revenge, and disability as an excuse; and (3) an acceptance of the child as being equal.

The adult insists that the children take responsibility for their own behavior.

In operation, the adult insists that children take responsibility for their own behavior. The adults disassociate themselves from the conflicts in which the child becomes involved, allowing the natural and logical consequences of the child's behavior to impinge on the child. Logical consequences are friendly, nonpunitive, related to the behavior and the social and physical order, and concerned with the present, not the past.

One other element of the Adlerian method is the periodic family-classroom council, in which responsibilities are shared and problems are discussed in a democratic atmosphere.

Behavior Modification

Behavior modification is a very powerful system based on learning theory, which holds that behavior can be influenced by manipulation of its consequences. Some of its

Behavior can be influenced by manipulation of its consequences.

basic elements include positive reinforcement, punishment, behavior monitoring, shaping, extinction, satiation, stimulus control, contingency management, behavior contracting, and timeouts.

Although some have charged that behavior modification is manipulative, it can be presented in a very open and democratic way. This is, in fact, almost necessary to ensure that the reinforcers chosen really are pleasant or aversive.

Punishment can be used without resorting to physical pain. Verbal feedback, removal from interaction, or removal of a pleasant stimulus can all be experienced as aversive. Punishment works best, of course, when paired with positively reinforced alternatives.

Counseling

Misbehaviors that arise from intrapsychic problems within children may indicate the need for some form of counseling such as play therapy or art therapy.

Some systems of viewing children's behavior, such as ego psychology, make a distinction between misbehaviors that arise from the interactions of children and their environments, and misbehaviors that arise from intrapsychic problems within children. In the latter case, some form of counseling may be indicated for the child. This would generally be done by a trained counselor, psychologist, or social worker, not the child's teacher, and should carry with it no implication that the child is "crazy" or "disturbed".

A common modality, especially for younger children, is play therapy in which the child, sustained by a warm, accepting relationship with the counselor, uses toys and play activities to express and work through conflicted feelings. Art therapy achieves much the same goals through the child's manipulation of plastic media.

Group counseling has also been used effectively with children. There are many approaches to group work with children, but most include sharing emotions, development of group feeling, and program activities which children enjoy.

Parent Effectiveness Training/ Teacher Effectiveness Training

PET/TET, created by Thomas Gordon, is a system based on ego psychology, the concept of the child as an equal, responsible person, and a renunciation of adult power. Adults begin by attempting to lower their thresholds for acceptable behavior, and analyzing problems to see who "owns" them.

The adult then uses "active listening", mirroring the feelings and attitudes expressed in the child's verbal and nonverbal behavior (if the child owns the problem) or "I-messages", which specify the child's behavior, its effects, and a request for change (if the adult owns the problem). Conflicts are resolved through a verbal "no-lose" method involving definition, brain-storming, selection of a solution, implementation, and evaluation.

Conflicts can be resolved through verbal interaction and use of appropriate messages with children.

The system also stresses environmental manipulation to control behavior by enriching, impoverishing, systematizing, or otherwise structuring the home/classroom situation.

An additional advantage of PET/TET is that it can be used in dealing with other adults (spouse, superivsor, supervisee) with equal success. Its highly verbal activities may, however, limit PET/TET's usefulness with younger or retarded children.

Positive Peer Culture

PPC was developed by Harry Vorrath and Larry Brendtro and draws on the concepts of Guided Group Interaction. Described by its authors as a "total system for building positive youth subcultures," it was designed and first used in an adolescent residential treatment setting.

Making the total group responsible for the behavior of its members promotes individual problem-solving and responsibility.

PPC makes the total group responsible for the behavior of its members, assuming that while children might resist changes themselves, they will help their friends to change. In doing so, they invariably help themselves also.

Group sessions are held in a trusting, open, nonjudgmental climate of change. Adults relabel nonfunctional behaviors to decrease their attractiveness, and approach problems as opportunities to work on changes.

As the group develops cohesion and trust, individuals learn to use the group to help them change their responses to problems they experience which lead them into disruptive or delinquent behavior.

Rational-Emotive Education

REE, based on the Rational-Emotive Therapy of Albert Ellis, was developed by William Knaus and refined in the Living School of the Institute for Rational Living. REE is a cognitive-behavioral system which holds that feelings and their behavioral reactions are the result not of events, but of the person's perceptions of, and attitudes toward, events.

A rational view based on evidence and probability is encouraged both in children and adults.

In group exercises and during class interaction, children's abilities to examine their attitudes and to dispute and reject irrational beliefs (such as "It is a dire necessity to be loved by everyone") are developed through sharing, self-questioning, and homework assignments.

The method stresses the attitudes of openness; tolerance of self, others, and the world; experimentation; and self-acceptance. Children—and adults—are encouraged to accept a view of events that is rational and based on evidence and probability, and to refrain from "catastrophizing".

Reality Therapy

Reality Therapy, developed by William Glasser as an alternative to traditional psychiatry, also can be applied in an educational setting. Despite its name, Reality Therapy is not only for use with "sick" people, but all persons who are having problems in meeting their needs.

Children's behavior becomes more fulfilling when children are given the opportunity to accept responsibility for their actions.

The mandatory first step in Reality Therapy is the establishment of a firm emotional relationship and involvement. Only through such an involvement are adults able to help children begin to fulfill their needs by showing them that their behavior is different or troublesome. In this way children can be shown that it would be better for everyone if they would behave differently, and that they alone are responsible for their own behavior.

Responsibility—the ability to fulfill one's needs without depriving others of the ability to fulfill theirs—is a key concept. As children realize they are responsible and are given the opportunities to accept responsibility, their behavior becomes more fulfilling for them and for those around them.

Transactional Analysis

Conveying the importance of being OK, expressing feelings and using open communication encourage children to discuss their problems rather than to act out.

Based on the comprehensive system for conceptualizing human behavior created by Eric Berne, TA in educational settings emphasizes the concepts of being OK, having the right to express feelings directly, using direct and honest communication, and giving positive and negative "strokes" ("warm fuzzies" and "cold pricklies") in dealings with others.

The transactional ego state aspects of TA also are used and are presented in terms of a "bossy me" (parental), a "thinking me" (adult), and a "feeling me" (child).

The system conceptualizes misbehavior as a means of getting strokes—negative strokes are better than no strokes at all—and encourages the children to discuss their needs and feelings with others rather than to act out.

SOME ALTERNATIVES TO THE USE OF PHYSICAL PUNISHMENT

The National Education Association Task Force suggests the following list of techniques for maintaining discipline without inflicting physical pain on students. It is far from exhaustive, and it should be noted that suggestions are most effective if utilized with children six years of age and older.

Short-Range Solutions

The first step that must be taken is the elimination of the use of punishment as a means of maintaining discipline. Then, the ideas below can be used as temporary measures to maintain discipline while longer-range programs are being put into effect.

Once use of corporal punishment is eliminated, immediate short-term solutions will maintain discipline while more long-range alternatives are being introduced.

1. Quiet places (corners, small rooms, retreats)
2. Student-teacher agreement on immediate alternatives
3. Teaming of adults—teachers, administrators, aides, volunteers (parents and others)—to take students aside when they are disruptive and listen to them, talk to them, and counsel them until periods of instability subside
4. Similar services for educators whose stamina is exhausted
5. Social workers, psychologists, and psychiatrists to work on a one-to-one basis with disruptive students or distraught teachers
6. Provision of alternate experiences for students who are bored, turned off, or otherwise unreceptive to particular education experiences:
   a. Independent projects
   b. Listening and viewing experiences with technological devices
   c. Library research
   d. Work-study experience

7. In-service programs to help teachers and other school staff learn a variety of techniques for building better interpersonal relations between themselves and students, and among students:
   a. Class meetings (Glasser technique)
   b. Role playing
   c. Case study—"What would you do?"
   d. Student-teacher human relations retreats and outings
   e. Teacher (or other staff)—student-parent conference
8. Class discussion of natural consequences of good and bad behavior (not threats or promises); of what behavior is right; of what behavior achieves desired results; of what causes a "bad day" for the class
9. Privileges to bestow or withdraw
10. Approval or disapproval
11. Other staff members to work with a class whose teacher needs a break

Intermediate-Range Solutions

Involvement of staff, parents, and children in a team effort is important.

1. Staff-student jointly developed discipline policy and procedures
2. Staff-student committee to implement discipline policy
3. Parent education program in interpersonal relations
4. Staff in-service program on interpersonal relations, on understanding emotions, and on dealing with children when they are disruptive
5. Student human relations councils and grievance procedures
6. Training for students and teachers in crisis intervention
7. Training for students in student advocacy
8. Training for teachers in dealing with fear of violence
9. Regular opportunities for principals to experience classroom situations

Long-Range Solutions in Schools

Long-range solutions take longer and more time to implement initially, but also may have longer-lasting and more effective results.

1. Full involvement of students in the decision-making process in the school
2. Curriculum content revision and expansion by students and staff to motivate student interest
3. Teacher in-service programs on new teaching strategies to maintain student interest

4. Alternate programs for students
5. Work-study programs
6. Drop-out/drop-back-in programs
7. Alternative schools within the public school system
8. Early entrance to college
9. Alternatives to formal program during last two years of high school
10. Few enough students per staff member that staff can really get to know students
11. Adequate professional specialists: psychiatrists, psychologists, social workers
12. Aides and technicians to carry out para-professional, clerical, and technical duties so that professional staff are free to work directly with students more of the time
13. A wide variety of learning materials and technological devices
14. Full implementation of the Code of Student Rights
15. Full implementation of NEA Resolution 71-12, "Student involvement," which states: "The National Education Association believes that genuine student involvement requires responsible student action which is possible if students are guaranteed certain basic rights, among which are the following: the right to free inquiry and expression; the right to due process; the right to freedom of association; the right to freedom of peaceful assembly and petition; the right to participate in the governance of the school, college, or university; the right to freedom from discrimination; and the right to equal educational opportunity."

Long-Range Solutions With Other Agencies

1. Staff help from local and regional mental health and human relations agencies
2. More consultant staff to work with individual problem students
3. Long-range intensive in-service programs to prepare all staff to become counselors
4. Mass media presentations directed to both the public and the profession on the place of children in contemporary American society
5. Some educational experiences relocated in business, industry, and social agencies
6. Increased human relations training in pre-service teacher education, and specific preparation in constructive disciplinary procedures (NEA, 1972, p. 27-28).

The appropriate care of children should be a concern of the entire community.

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